



Mecanismo Nacional de
Prevención de la Tortura

Women in prison: Paraguay

Analysis from the National Preventive Mechanism

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association pour la prévention de la torture
asociación para la prevención de la tortura
association for the prevention of torture



In partnership with



Paraguay



UNCAT Ratification 12 March 1990	OPCAT Ratification 2 December 2005
National Preventive Mechanism (NPM) National Preventive Mechanism for the Prevention of Torture (NPM)	
NPM legal framework Law No. 4288/11 (27 April 2011)	NPM operationalisation Since 2014
NPM structure New specialised institution	NPM composition 6 Commissioners (3 women) and 19 officials (13 women)

I. Facts and Figures

Prison population	Women in prison - Characteristics	Prisons for women	Prison staff
Total prison population 17,545	Indigenous women 8	Number of women's prisons 8	Prison staff (total) 2352
Women in prison (total) 932 5.3%	Foreign women 49	Women-only prisons 3	Women prison staff 699 29.7%
Sentenced women 371	Pregnant women 16	Mixed prisons with separate units for women 5	Administrative staff 177
Women in pre-trial detention 561	Older women ¹ 30		Security sector staff 360
	Women with disabilities 2		Health staff 162
	Children with their mothers in prison 28		
<i>Source: Ministry of Justice, 27 October 2023.²</i>	<i>Source: Ministry of Justice, 27 October 2023.</i>	<i>Source : National Preventive Mechanism for the Prevention of Torture (NPM).</i>	<i>Source: Ministry of Justice, 27 October 2023</i>

¹ Law N. 1885 on the elderly, art. 1: "The purpose of this law is to protect the rights and interests of the elderly, meaning those over the age of sixty" <https://www.bacn.gov.py/leyes-paraguayas/5100/de-las-personas-adultas>

² Information provided to the National Preventive Mechanism for the Prevention of Torture by the Ministry of Justice

II. Recommendations

Legal and policy framework

- + Adopt a gender-sensitive prison policy with an intercultural and intersectional approach, taking into account historical discrimination and gender stereotypes.
- + Modify criminal legislation in order to harmonise the penalties applied to drug offences, specifically [law 1340/8810](#) and its amendments "which represses the illicit trafficking of narcotics and dangerous drugs and other related offences and establishes measures for the prevention and recovery of drug addicts". With this legislation, international trafficking and micro-trafficking now have the same criminal sanction, with a greater impact on women.

Separation

- + Close women's wards in mixed prisons and bring the women-only prison in line with the basic standards set out in national legislation (Arts. 192, 198, 211-218 and 229 of the Penal Enforcement Code) and with the Bangkok Rules.

Health

- + Establish measures for comprehensive healthcare for women, taking into account their biological particularities, in addition to care for women suffering from chronic illnesses, by providing more resources for the transfer of women to hospitals and the inclusion of a medical team for the systematic care of women's health.

Alternatives to detention

- + Prioritise the use of alternative measures to imprisonment, establishing a system that facilitates communication between remand judges, the penitentiary system and enforcement judges to control the length of pre-trial detention and to act in the face of degrading conditions experienced by women. The communication provided for in Art. 254 of the Code of Criminal Procedure in accordance with Art. 33 of the Penal Enforcement Code should be applied.

III. Detention Issues

In the last thirteen years, the population of women in prison has grown steadily, from 448 in 2011 to 894 in 2019, with a decrease during the pandemic period, when women began to be held in police stations due to the closure of the detention centres. With the reopening of prisons, the number increased again to the 932 women who are in the prison system today³.

The NPM has been drawing attention to the marked increase in the number of women in prison for drug-related offences. This has led to an increase in the number of women and, consequently, to an increase in overcrowding and deterioration of detention conditions. In the latest data collected by the NPM in August 2023, it was found that drug offences continue to be the main reason why women are incarcerated.

Many of these women in prison for crimes related to drug micro-trafficking have indicated that this illicit activity allows them to cover their food expenses, and they can do it from their homes, where they take care of the children and domestic chores, and some of them are forced to do so by their partners. In the case of foreign women prosecuted for trying to carry drugs to another country in their private parts or stomach, putting their health at risk, known as "mules", as they are detained far from their family and

³ Information as of October 2023.

country, they cannot access procedural benefits due to the lack of roots.

Data show that almost half of the female prison population is being prosecuted for micro-trafficking⁴. Hence the urgent need to modify the drug law in a fairer and more equitable way, as the same criminal policy cannot be applied to international drug trafficking and retail drug dealing. If this change were made, it would significantly reduce the number of women in prison, as the current penal framework prevents less burdensome and liberty-respecting measures.

According to the NPM, the moment of arrest and detention in primary detention centres (police stations and police patrol cars) are the critical points of the route of torture and institutional violence. According to data from the 2016 [Censo de Mujeres Privadas de Libertad](#) [Census of Women Deprived of Liberty] by the NPM, 35.3% stated that they had been victims of torture and/or ill-treatment at the time of detention by the National Police, the National Anti-Drug Secretariat and the Prosecutor's Office. Also, 10.4% of women in prison stated that they had been victims of torture and ill-treatment during the judicial process (statement, appearances, court hearings and other acts of the judicial procedure); and 20% stated that they had been victims of torture and ill-treatment in penitentiaries.

Separation

29% of incarcerated women are held in male prisons, which are governed and managed by male staff. As they are designed for men, they lack gender-specific infrastructure and facilities. Administration by men also exposes women to various risks of ill-treatment and torture, ranging from lack of awareness to sexual harassment and violence.

In mixed prisons where women's wards are located, men's needs in prison are highly prioritised over women's needs, a fact that was observed during [the monitoring visits in 2022](#). The spaces for women are minimal; the health area does not have priority specialties such as gynaecologists or paediatricians; and the judicial area is more focused on the care of men. Another relevant fact is that there is no technical criminological body for the women's area and, therefore, women cannot access work and training programmes, and cultural, recreational and educational activities are restricted.

These findings highlight the lack of a criminal policy with a gender perspective. In this regard, the NPM has repeatedly recommended that women held in male prisons be transferred to women-only prisons.

The women's ward of the Misiones Regional Penitentiary, originally designed for the sanitary area, does not meet the basic requirements regarding the specific characteristics of women, especially those who are housed with young children. There is no playground for young children. The cells and toilets were designed for male use. Neither the architectural design, nor the distribution of spaces, nor the equipment take them into account, creating a hostile environment and relegating them to a secondary status. In this way, gender differences are reinforced and they become invisible. An example of this is that, despite the efforts made by the Ministry of Justice to separate the management of the women's ward from the prison as a whole, there is still administrative dependence on the men's prison, both for transfers to check-ups and medical consultations and for security and the provision of supplies⁵.

Body searches

Searches of women in prison are carried out, in most cases, on a preventive basis, every three months or when there is a change of authorities. They are carried out in the early hours of the morning and the prison authorities allow the entry of male staff, supposedly to support the female prison officers. The staff enter with firearms or the searches are generally carried out in a sector or ward looking for prohibited objects.

⁴ According to the statistical yearbook of the NPM for the year 2023⁴, 44.30% of women are deprived of their liberty for micro-trafficking: <https://mnp.gov.py/wp-content/uploads/Anuario2023.pdf>

⁵ National Preventive Mechanism for the Prevention of Torture, Follow-up Report, ISPM 08_2019.

Despite having a Protocol⁶ for Inspections and Searches in Penitentiary Centres, the Ministry of Justice does not comply with the procedures established therein. There is no record of the searches, nor are there any details of the prison staff who carry out the searches. The regulation even establishes the obligation to record the searches from start to finish, with GoPro cameras, and the director of the penitentiary centre has the obligation to store the recordings for a period of 2 years. Although the protocol mentions body searches in its general provisions, it only refers to them being conducted by persons of the same sex and does not have a developed procedure.

Searches of persons visiting family members are systematically carried out on a preventive basis in order to avoid the entry of drugs or other prohibited items. In some of the monitoring carried out by the NPM, situations of searches of adolescent girls have been identified in which, if they were menstruating, they were forced to give up their sanitary towels. Most of the women interviewed reported that sometimes their relatives do not want to visit them because of these situations, which even affect older female relatives who are forced to do squats in order to check if no objects have entered their private parts. Other recurrent complaints during the interviews are the groping by the prison officers who carry out the searches, and verbal abuse.

None of the penitentiary establishments have scanners or other alternative mechanisms to avoid these humiliating practices. In prisons where children live with their mothers, no special care is taken and searches are carried out in front of the children, thus subjecting them to traumatic situations. Most of the time, personal searches are carried out in order to seize mobile phones. There are no official records of these searches either.

Solitary confinement

Chapter III of the [Penal Enforcement Code](#) regulates the rules of conduct of persons deprived of their liberty, their rights, obligations, the procedure for applying sanctions and prohibitions. With regards to isolation as a sanction, the law provides that it may be applied for up to fifteen days for serious offences and up to thirty days for particularly serious offences. The regulation completes a procedure for applying sanctions, establishing the right of the person to appeal the administrative sanction before the enforcement judge, and the judge's decision to be reviewed by a higher court.

As a safeguard, the rule stipulates that imprisoned women in isolation must be visited daily by a senior staff member and a doctor, and be entitled to two hours of sunshine a day and reading material. In addition, the individual cell must be airy, well-lit and sanitary.

The law provides that all establishments must have a record book of sanctions, initialled by the enforcement judge. Although the law does not expressly prohibit the isolation of girls, pregnant women, breastfeeding women, women detainees with small children and women with psychosocial disabilities, it states that corporal punishment and disciplinary measures involving inhuman or degrading treatment are prohibited and provides that persons in prison have the right not to be subjected to torture or ill-treatment, nor to be subjected to unnecessary rigour in the application of the law.

Regardless of the provisions of the law, in practice, it has been identified that women in prison are frequently threatened with isolation and are banned from social visits. Isolations are applied without procedure, in an arbitrary manner, by the prison officers on duty, and no real record is kept of them. Women are unaware of the length of time they must be isolated. The isolation cells are precarious improvised spaces, and most of them do not have toilets, natural and artificial light, beds and sheets. Minimum safeguards are not applied.

Another of the situations identified is the use of isolation as a preventive measure, alleging that the person is at risk to their life or physical integrity, but there is no official documentation to accredit these extremes. There is also no record of consent, and these isolations can be carried out for long periods of time without safeguards being guaranteed, without contact to the population.

Access to mental healthcare

The NPM has found that the initial medical examination does not include the identification of mental health needs, including post-traumatic stress disorder and risk of suicide and self-harm, and women's

⁶ Resolution of the Ministry of Justice No. 887 dated 30 December 2021.

mental health needs are not regularly assessed during their incarceration. There is a lack of mental health support and treatment for women in prison and a lack of mental health awareness-raising for women detainees, family members and prison staff. There is no gender-sensitive training for staff working in prisons or women's wards to identify when women may be particularly distressed and to respond to women's needs and refer them to specialist support.

With regard to the official mental health register (daily report), this classification includes all incarcerated persons who are taking controlled medication, which does not necessarily imply that they have a diagnosis of a psychosocial problem. Some are temporarily medicated, due to difficulties in falling asleep or anxiety, but the majority are related to problematic drug use as the only medication response.

In most prisons, there is no psychiatrist. In some of them there is a psychologist. In order to access the service, prisoners must go directly to the psychology department to request a consultation. However, in practice, as there is an insufficient number of psychology staff to attend to the whole population, the service is limited to producing technical criminological reports for convicted prisoners, and does not provide therapeutic care.

One of the main challenges in prisons is problematic drug use, and there are no assigned wards, detoxification programmes or psychotherapists. The only response is medication, without rigorous monitoring of the medication. Even in the monitoring, cases of virtual consultation with the psychiatrist have been reported.

IV. Women in Special Situations of Vulnerability

LGBTIQ+ women

In the penitentiary field, the main challenge is to have an approach model for the LGBTIQ+ population. The current policy does not provide for specific actions, which violates the rights of this group.

The majority of incarcerated transgender persons are detained in the country's male prisons. In the annual monitoring carried out by the NPM, it has been noted that transgender persons are frequently transferred. According to transgender persons, the reasons for transfers always refer to the fact that the prison management does not want transgender persons in their facilities. Most of the trans persons do not have family support and these permanent rotations of which they are victims due to discrimination put them in a situation of greater vulnerability.

None of the country's prisons have specific spaces for transgender women. They are placed in improvised spaces, under staircases, or in the quadrangles of the wards, they do not have artificial light, bathroom, water, or beds and have only mattresses. They have to wander all over the prison in order to have access to a toilet in one of the wards, and they have no space to wash themselves. The prison authorities do not allow transgender women to be in women's facilities or in women's wards. They are housed in spaces that are located in the quadrangles of the men's wards, exposed to violence and ill-treatment by male prisoners and prison officers. In such conditions, the logic of subjugation, sex work and discrimination is replicated for the transgender population in order to survive.

Women with disabilities

The official records of the Ministry of Justice do not have information to identify what type of disability women in prison have. In a [census](#) conducted by the NPM among incarcerated women in 2015, it was found that 17.7% of them had a disability, 64% reported having a visual disability, 23% a physical disability, 7% a hearing disability, 4% a psychological disability, and 2% an intellectual disability.

Women with children in prison

For women, the prison system violates the right to exercise parental responsibility when they are mothers.

Once in prison, the exercise of parental responsibility for their children is suspended "de facto" and by absolute absence of conditions, while the law determines otherwise.

The suspension of the duties and rights of mothers should only cease in accordance with the legal precepts, i.e. when there is a definitive conviction related to the violation of the rights of children and adolescents. In other cases, the law establishes precisely the opposite, i.e. the State should ensure that the bond is maintained despite the mother's deprivation of liberty. Currently, the conditions do not exist, nor does the State facilitate the exercise of these rights and duties of mothers with respect to their children.

V. Other Relevant NPM Information on Women in Prison

- + NPM, [Censo de Mujeres Privadas de Libertad 2015: Condiciones de vida, vulneración de derechos humanos, tortura y malos tratos \[Census of Women Deprived of Liberty 2015: Living conditions, human rights violations, torture and ill-treatment\]](#)
- + NPM, , [Informes de monitoreo y seguimiento a penitenciarías \[Prison Monitoring and Tracking Reports\]](#)

This report is part of the Global NPM report on Women in Prison.

Access the full report here: www.apt.ch/global-report/